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October 30, 2001

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

**Ex Parte: Implementation of the Local Competition Provisions in the
Telecommunications Act of 1996 - CC Docket No. 96-98**

Dear Ms. Salas,

On October 29, 2001, Augie Trinchese, Sherry Ingram, Ed Shakin and the undersigned met with Jordan Goldstein of Commissioner Copp's office to discuss Verizon's obligations under the 1996 Act to provision unbundled high capacity services. The attached material was used in the discussions.

Pursuant to Section 1.1206(a)(1) of the Commission's rules, and original and one copy of this letter are being submitted to the Office of the Secretary. Please associate this notification with the record in the proceeding indicated above. If you have any questions regarding this matter, please call me at (202) 515-2530.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Scott Randolph", written over a horizontal line.

W. Scott Randolph
Director - Regulatory Matters

Attachment

cc: Jordan Goldstein

Verizon's Policies and Practices for Provisioning Unbundled DS-1 Loops Not Only Fully Comply with the Commission's Rules and Policies but Go Beyond the Necessary Requirements:

- Verizon will unbundle DS-1 and DS-3 loop facilities where those facilities are available
- Where no facilities are available, and Verizon has construction underway to meet anticipated demand for its access services, an estimated provisioning date will be provided based on anticipated completion date of the pending job
- Where requisite line cards have not been deployed but space exists in the multiplexers at the central office and customers' location, Verizon will order and place the necessary line cards in order to provision the UNE
- Verizon will cross-connect the existing common equipment (multiplexers) to the copper or fiber facility
- Verizon will place a doubler in an existing apparatus case where necessary given the length of the loop
- If Verizon responds to a DS-1 UNE request with a Firm Order Confirmation notice, and subsequently finds the spare facilities are defective, Verizon will perform the work necessary to clear the defect
- In late July Verizon issued a notice to CLECs reiterating its policy for provisioning DS-1 and DS-3 UNEs

Verizon is Not Legally Obligated to Build UNEs when Facilities Do Not Exist:

- The Eighth Circuit Court made clear that the “Act” does not require ILECs to build
 - “Subsection 251(c)(3) implicitly requires unbundled access only to an incumbent LEC’s existing network—not to a yet unbuilt superior one”
- FCC reflects this interpretation with regard to “transport”
 - Under the Local Competition Provisions of the Telecommunications Act of 1996, Verizon is not required “to construct new transport facilities to meet specific competitive LEC point-to-point demand requirements for facilities that the incumbent LEC has not deployed for its own use”
 - There is no legal basis for a different finding related to other UNEs
- The Commission has never forced an ILEC to invest in new equipment in order to enable a loop to support services that the loop cannot otherwise provide.
 - All that is required is that Verizon modify its network to allow *access* to *existing* network elements; there is no obligation to build network elements where they do not exist
 - The “modification” language in the Local Competition Order, which is included in the Commission’s discussion of the ILEC’s requirement to provide access at technically feasible points, means only that ILECs are required to make modifications to their existing, previously self-contained networks in order to allow potential competitors to access and share those networks
- The requirement to *modify*, therefore, addresses the need to provide *access* to UNEs—not to create or build UNEs.

Claims that Verizon's Obligation To "Condition" Loops Requires It To "Install" Necessary Equipment To Provide Workable UNE Loops is Incorrect:

- The Commission's rules and decisions could not be more clear...ILECs' conditioning obligation requires them only to *remove* equipment that compromises the loop's ability to support certain services, not to *install* new services
- Rule 51.319(a)(i) defines "line conditioning" as "the *removal* from the loop of any devices that may diminish the capability of the loop to deliver high-speed switched wireline telecommunications capability, including xDSL service"
- The UNE Remand Order states that a "conditioned" loop is "a loop from which bridge taps, low-pass filters, range extenders, and similar devices have been *removed*" and that "[l]oop conditioning requires the incumbent LEC *to remove* these devices, paring down the loop to its basic form"

Verizon's DS-1 Policy is non-Discriminatory:

- Verizon provides competitive carriers with access to existing UNEs on a non-discriminatory basis; all UNE customers are treated the same.
- Requests from all of Verizon's access service customers, whether they are CLECs, IXC's or end users, are handled in the same manner, precluding any claim of discrimination
- Unlike UNEs, special access is a service with different obligations and charges.
- Verizon will build new DS-1 facilities for wholesale customers and for all other access service customers on the same terms under its special access tariffs
- Verizon generally will undertake to construct the facilities required to provide service at tariffed rates (including any applicable special construction rates) if the required work is consistent with Verizon's current design and construction program.